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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS-R7-MB-2015-0172; FF09M21200-1657-FXMB1231099BPP0]

RIN 1018-BB24

Migratory Bird Subsistence Harvest in Alaska; Use of Inedible Bird Parts in Authentic Alaska Native Handicrafts for Sale

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is proposing changes to the permanent subsistence migratory bird harvest regulations in Alaska. These regulations would enable Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence harvest season. These proposed regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

DATES: We will accept comments received or postmarked on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER**

INFORMATION CONTACT by [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments on the information collection aspects of this proposed rule must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES:

Comments on the Proposed Rule. You may submit comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments to Docket No. FWS-R7-MB-2015-0172.
- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R7-MB-2015-0172; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Place, MS: BPHC; Falls Church, VA 22041-3803.

We will not accept e-mail or faxes. We will post all comments on <http://www.regulations.gov>.

This generally means that we will post any personal information you provide us (see the **Public Comment Procedures** section, below, for more information).

Comments on the Information Collection Aspects of the Proposed Rule: You may review the Information Collection Request online at <http://www.reginfo.gov>. Follow the instructions to review Department of the Interior collections under review by OMB. Send comments (identified by 1018-BB24) specific to the information collection aspects of this proposed rule to both the:

- Desk Officer for the Department of the Interior at OMB–OIRA at (202) 295–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email); and
- Service Information Collection Clearance Officer; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803 (mail); or *hope_grey@fws.gov* (email).

FOR FURTHER INFORMATION CONTACT: Donna Dewhurst, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786-3499.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

To ensure that any action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this proposed rule by one of the methods listed above in **ADDRESSES**. We will not accept comments sent by e-mail or fax or to an address not listed in **ADDRESSES**. If you submit a comment via

<http://www.regulations.gov>, your entire comment—including any personal identifying information, such as your address, telephone number, or e-mail address—will be posted on the Web site. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-carry a hardcopy comment directly to us that includes personal information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy comments on <http://www.regulations.gov>.

In addition, comments and materials we receive, as well as supporting documentation used in preparing this proposed rule, will be available for public inspection in two ways:

- (1) You can view them on <http://www.regulations.gov>. Search for FWS-R7-MB-2015-0172, which is the docket number for this rulemaking.
- (2) You can make an appointment, during normal business hours, to view the comments and materials in person at the Division of Migratory Bird Management, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041-3803; (703) 358-1714.

Public Availability of Comments

As stated above in more detail, before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Background

We propose changes to the permanent migratory bird subsistence harvest regulations in Alaska. This proposal was developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

The Alaska Migratory Bird Co-management Council (Co-management Council) held meetings on April 8-9, 2015, to develop recommendations for changes that would take effect starting during the 2016 harvest season. Changes were recommended for the permanent regulations in subpart A of 50 CFR part 92 to allow sale of handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. These recommended changes were presented first to the Pacific Flyway Council and then to the Service Regulations Committee (SRC) for approval at the committee's meeting on July 31, 2015.

This Proposed Rule

The regulations at title 50 of the Code of Federal Regulations (CFR) at section 92.6 (50 CFR 92.6) currently state, “You may not sell, offer for sale, purchase, or offer to purchase migratory

birds, their parts, or their egg(s) taken under [the migratory bird subsistence harvest in Alaska regulations at 50 CFR part 92].” This rulemaking proposes regulations that would enable Alaska Natives to sell authentic native articles of handicraft or clothing that contain inedible byproducts from migratory birds that were taken for food during the Alaska migratory bird subsistence harvest season.

Specifically, in § 92.4, we propose to add definitions for “Authentic Native article of handicraft or clothing,” “Migratory birds authorized for use in handicrafts or clothing,” and “Sales by consignment.” We propose to add these definitions to explain the terms we use in our proposed changes to § 92.6, which are explained below.

Also under subpart A, we propose to add a provision to § 92.6 to allow sale of handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. A request was made by Alaska Native artisans in Kodiak to use the inedible parts, primarily feathers, from birds taken for food during the subsistence hunt, and incorporate them into handicrafts for sale. New proposed regulations were developed in a process involving a committee comprised of Alaska Native representatives from Yukon-Kuskokwim Delta, Bering Straits, North Slope, Kodiak, Bristol Bay, Gulf of Alaska, Aleutian-Pribilof Islands, and Northwest Arctic; representatives from the Alaska Department of Fish and Game; and Service personnel. The biggest challenge was developing a list of migratory birds that could be used in handicrafts. This required cross-referencing restricted species listed in the various international migratory bird treaties. Recognizing that the Japan Treaty was the most

restrictive, the committee compiled a list of 27 species of migratory birds from which inedible parts could be used in handicrafts for sale. The proposed regulations would allow the limited sale by Alaska Natives of handicrafts made using migratory bird parts, including consignment sales. Requiring the artist's tribal certification or Silver Hand insignia would limit counterfeiting of handicrafts.

Who Would Be Eligible To Sell Handicrafts Containing Migratory Bird Parts Under These Regulations?

Under Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States, only Alaska Natives would be eligible to sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Protocol also dictates that sales would be under a strictly limited situation. Eligibility would be shown by a Tribal Enrollment Card, Bureau of Indian Affairs card, or membership in the Silver Hand program. The State of Alaska Silver Hand program helps Alaska Native artists promote their work in the marketplace and enables consumers to identify and purchase authentic Alaska Native art. The insignia indicates that the artwork on which it appears is created by hand in Alaska by an individual Alaska Native artist. Only original contemporary and traditional Alaska Native artwork, not reproductions or manufactured work, may be identified and marketed with the Silver Hand insignia. To be eligible for a 2-year Silver Hand permit, an Alaska Native artist must be a full time resident of Alaska, be at least 18 years old, and provide documentation of

membership in a federally recognized Alaska Native tribe. The Silver Hand insignia may only be attached to original work that is produced in the State of Alaska.

How Will the Service Ensure that This Proposal Would Not Raise Overall Migratory Bird Harvest or Threaten the Conservation of Endangered and Threatened Species?

Under this proposal, Alaska Natives would be permitted to only sell authentic native articles of handicraft or clothing that contain an inedible byproduct of migratory birds that were taken for food during the Alaska migratory bird subsistence harvest season. Harvest and possession of these migratory birds must be conducted using nonwasteful taking.

Under this proposal, handicrafts may contain inedible byproducts from only bird species listed at § 92.6(b)(1) that were taken for food during the Alaska migratory bird subsistence harvest season. This list of 27 migratory bird species came from cross-referencing restricted (from sale) species listed in the Treaties with Russia, Canada, Mexico, and Japan with those allowed to be taken in the subsistence harvest. The migratory bird treaty with Japan was the most restrictive and thus dictated the subsistence harvest species from which inedible parts could be used in handicrafts for sale. In addition, all sales and transportation of sold items would be restricted to within the United States (including territories), until an import/export permit system can be established.

We have monitored subsistence harvest for over 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon–Kuskokwim Delta. In

recent years, more intensive harvest surveys combined with outreach efforts focused on species identification have been added to improve the accuracy of information gathered.

Spectacled and Steller's Eiders

Spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species. Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Both species are closed to all forms of subsistence harvest and thus would not be authorized to have their inedible parts used to make handicrafts for sale.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act (16 U.S.C. 1536) requires the Secretary of the Interior to "review other programs administered by him and utilize such programs in furtherance of the purposes of the Act" and to "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *" We conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office on this proposed action as it would be managed in accordance with this proposed rule and the conservation measures. The consultation was completed with a Letter of Concurrence on a not likely to adversely affect determination for spectacled and Steller's eiders on handicraft sales dated December 29, 2015.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, at 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to “issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.”

Article II(4)(b) of the Protocol between the United States and Canada amending the 1916 Convention for the Protection of Migratory Birds in Canada and the United States provides a legal basis for Alaska Natives to be able sell handicrafts that contain the inedible parts of birds taken for food during the Alaska spring and summer migratory bird subsistence harvest. The Protocol also dictates that sales would be under a strictly limited situation pursuant to a regulation by a competent authority in cooperation with management bodies. The Protocol does not authorize the taking of migratory birds for commercial purposes.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rulemaking on small entities (i.e., small businesses, small organizations, and small government jurisdictions) (5 U.S.C. 601 et seq.). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for “significant impact” and a threshold for a “substantial number of small entities.” See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not

have a significant economic impact on a substantial number of small entities.

This proposed rule would impact Alaska Natives selling authentic native articles of handicraft or clothing such as headdresses, native masks, and earrings. We estimate that the majority of Alaska natives selling authentic native articles of handicraft or clothing would be small businesses. Alaska Native small businesses within the manufacturing industry, such as Pottery, Ceramics, and Plumbing Fixture Manufacturing (NAICS 327110 small businesses have <750 employees), Leather and Hide Tanning and Finishing (NAICS 316110), Jewelry and Silverware Manufacturing (NAICS 339910 small businesses have <500 employees), and all other Miscellaneous Wood Product Manufacturing (NAICS 321999 small businesses have <500 employees), may benefit from some increased revenues generated by additional sales. We expect that additional sales or revenue would be generated by Alaska Native small businesses embellishing or adding feathers to some of the existing handicrafts, which may slightly increase profit. The number of small businesses potentially impacted can be estimated by using data from the Alaska State Council of the Arts, which reviews Silver Hand permits. Currently, there are about 1,800 Silver Hand permit holders, of which less than 1 percent sell more than 100 items annually, and they represent a small number of businesses within the manufacturing industry. Due to the small number of small businesses impacted and the small increase in overall revenue anticipated from this proposed rule, it is unlikely that a substantial number of small entities would have more than a small economic effect (benefit). Therefore, we certify that this rule would not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act. An initial/final regulatory flexibility analysis is not

required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

1. Would not have an annual effect on the economy of \$100 million or more. It would legalize and regulate a traditional subsistence activity. Alaska Native tribes would have a small economic benefit through being allowed to incorporate inedible bird parts into their authentic handicrafts or handmade clothing and to sell the products. However, the birds must have been harvested for food as part of the existing subsistence hunt, and only a limited list of 27 species could be used. The intent is to allow limited benefits from salvage of the inedible parts, not to provide an incentive for increasing the harvest. It should not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that would be regulated under this proposed rule are inedible parts of migratory birds taken for food under the subsistence harvest, and incorporated into handicrafts. Most, if not all, businesses that would sell the authentic Alaska Native handicrafts would qualify as small businesses. We have no reason to believe that this proposed rule would lead to a disproportionate distribution of benefits.

2. Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This proposed rule does deal with the sale of authentic Alaska Native handicrafts, but should not have any impact on prices for consumers.

3. Would not have significant adverse effects on competition, employment, investment,

productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This proposed rule does not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this proposed rule would not impose a cost of \$100 million or more in any given year on local, State, or tribal governments or private entities. The proposed rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Co-management Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than \$300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The Alaska Department of Fish and Game also incurs expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska will be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed \$100,000 per year, but should not exceed \$150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations

and the Alaska Department of Fish and Game to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this proposed rule would not have significant takings implications. This proposed rule is not specific to particular land ownership, but applies to the use of the inedible parts of 27 migratory bird species in authentic Alaska Native handicrafts. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this proposed rule on the State of Alaska under *Unfunded Mandates Reform Act*, above. We worked with the State of Alaska to develop these proposed regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this proposed rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations with Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), “Consultation and

Coordination with Indian Tribal Governments,” and Department of Interior policy on Consultation with Indian Tribes (December 1, 2011), we will send letters to all 229 Alaska Federally recognized Indian tribes. Consistent with Congressional direction (Public Law 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452; as amended by Public Law 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we will be sending letters to approximately 200 Alaska Native corporations and other tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on this handicraft sales proposed rule.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska’s indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the Statewide body.

Paperwork Reduction Act of 1995 (PRA)

This proposed rule contains a collection of information that we have submitted to the Office of Management and Budget (OMB) for review and approval under the PRA (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved our collection of information associated with:

- Voluntary annual household surveys that we use to determine levels of subsistence take (OMB Control Number 1018-0124).
- Permits associated with subsistence hunting (OMB Control Number 1018-0075).

This proposed rule requires that a certification (FWS Form 3-XXXX) or a Silver Hand insignia accompany each Alaska Native article of handicraft or clothing that contains inedible migratory bird parts. It also requires that all consignees, sellers, and purchasers retain this documentation with each item and produce it upon the request of a Law Enforcement Officer. We have reviewed FWS Form 3-XXXX and determined that it is a simple certification, which is not subject to the PRA. We are requesting that OMB approve the recordkeeping requirement to retain the certification or Silver Hand insignia with each item and the requirement that artists and sellers/consignees provide the documentation to buyers.

Title: Alaska Native Handicrafts, 50 CFR 92.6.

OMB Control Number: 1018-XXXX.

Service Form Number(s): None.

Type of Request: Request for a new OMB control number.

Description of Respondents: Individuals and businesses.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Ongoing.

Estimated Number of Respondents: 8,749 (7,749 buyers and 1,000 artists, sellers, and consignees).

Estimated Number of Annual Responses: 18,081.

Estimated Completion Time Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 1,507 hours.

Estimated Total Nonhour Burden Cost: None.

Because this is a new program, it is impossible to precisely estimate the number of artwork pieces including feathers of migratory birds that will be commercialized per year. To estimate burden associated with this information collection, we based estimates for the number of responses and completion time per response on following information and related reasonable assumptions. We calculated the number of responses based on an estimate of the number of art pieces produced per year. The number of art pieces produced per year was based on the following information provided by the Alaska State Council on the Arts. The Silver Hand Program currently has 205 registered participants. Along the 40 years of existence of the program, a total of 1,800 participants have been registered. Registrations are valid for a 3-year period, after which participants need to renew their permit. Silver Hand insignia or tags can only be attached to an original article of authentic Alaska Native art that has been made entirely by the artist and within the State of Alaska. Silver Hand participants are eligible for 100 tags per year. Participants may request additional tags if needed. Among Silver Hand participants, less

than 1 percent has requested additional tags (information provided by the Alaska State Council on the Arts (<https://education.alaska.gov/aksca/native.html>, in February 2016)). We assumed that:

1. Each of 205 Silver Hand participants uses 70 tags per year (about 6 art pieces per month per artist, or 14,350 pieces per year Alaska-wide). For purposes of this collection, we assumed that artists who do not participate in the Silver Hand program produce the same number of pieces per year, for a total of 28,700 pieces Alaska-wide.

2. One third of all pieces produced include migratory bird feathers (9,567 pieces including feathers per year Alaska-wide).

3. Ten percent of all pieces including migratory bird feathers were eventually not commercialized (8,610 pieces commercialized per year). Ten percent of commercialized pieces were not sold (7,749 pieces sold).

4. Two-thirds of all pieces were sold directly by artists to buyers. This implies that one third of all pieces were sold by sellers or consignees (2,583);

5. Respondents (consignees, sellers, and buyers) spend 5 minutes to handle and archive each piece's documentation.

REQUIREMENT	ESTIMATED NO, OF RESPONSES	COMPLETION TIME PER RESPONSE	ESTIMATED NO, OF ANNUAL BURDEN HOURS
Third Party Disclosure. Artists – provide certification/Silver Hand tag for each item. Sellers/Consignees – provide documentation to buyers	10,332	5 minutes	861
Buyers - retain documentation	7,749	5 minutes	646
Totals	18,081		1,507

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

1. Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
2. The accuracy of our estimate of the burden for this collection of information;
3. Ways to enhance the quality, utility, and clarity of the information to be collected; and
4. Ways to minimize the burden of the collection of information on respondents.

If you wish to comment on the information collection requirements of this proposed rule, send your comments directly to OMB (see detailed instructions under the heading *Comments on the Information Collection Aspects of the Proposed Rule* in **ADDRESSES**). Please identify your comments with 1018–BB24. Provide a copy of your comments to the Service Information Collection Clearance Officer (see detailed instructions under the heading *Comments on the Information Collection Aspects of the Proposed Rule* in **ADDRESSES**).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

These proposed regulations are examined in a February 2016 environmental assessment, “Migratory Bird Subsistence Harvest in Alaska: Allow Use of Inedible Bird Parts in Authentic Alaska Native Handicrafts for Sale,” dated February 18, 2016. Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at <http://www.regulations.gov>.

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order. Further, this proposed rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and a Statement of Energy Effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, we propose to amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

2. Amend § 92.4 by adding, in alphabetical order, definitions for “*Authentic Native article of handicraft or clothing*”, “*Migratory birds authorized for use in handicrafts or clothing*”, and “*Sale by consignment*” to read as follows:

§ 92.4 Definitions.

* * * * *

Authentic Native article of handicraft or clothing means any item created by an Alaska Native to which inedible parts of migratory birds authorized for use in handicrafts or clothing are incorporated and which is fashioned by hand, or with limited use of machines, provided no mass production occurs.

* * * * *

Migratory birds authorized for use in handicrafts or clothing means the species of birds listed at 50 CFR 92.6(b) which were taken for food in a nonwasteful manner during the Alaska subsistence harvest season by an eligible person of an included area.

* * * * *

Sale by consignment means that an Alaska Native sends or supplies an authentic Native article of handicraft or clothing to a person (Alaska Native or non-Alaska Native) who sells the item for the Alaska Native. The Alaska Native retains ownership of the item and will receive money for the item when it is sold.

* * * * *

3. Revise § 92.6 to read as follows:

§ 92.6 Use and possession of migratory birds.

You may not sell, offer for sale, purchase, or offer to purchase migratory birds, their parts, or their eggs taken under this part, except as provided in this section.

(a) *Giving and receiving migratory birds.* Under this part, you may take migratory birds for human consumption only. Harvest and possession of migratory birds must be conducted using nonwasteful taking. Edible meat of migratory birds may be given to immediate family members by eligible persons. Inedible byproducts of migratory birds taken for food may be used for other purposes, except that taxidermy is prohibited, and these byproducts may only be given to other eligible persons or Alaska Natives.

(b) *Authentic native articles of handicraft or clothing.* (1) Under this section, authentic native articles of handicraft or clothing may be produced for sale only from the following bird species:

- (i) Tundra swan (*Cygnus columbianus*).
- (ii) Blue-winged teal (*Anas discors*).
- (iii) Redhead (*Aythya americana*).
- (iv) Ring-necked duck (*Aythya collaris*).
- (v) Greater scaup (*Aythya marila*).
- (vi) Lesser scaup (*Aythya affinis*).
- (vii) King eider (*Somateria spectabilis*).
- (viii) Common eider (*Somateria mollissima*).
- (ix) Surf scoter (*Melanitta perspicillata*).
- (x) White-winged scoter (*Melanitta fusca*).
- (xi) Barrow's goldeneye (*Bucephala islandica*).
- (xii) Hooded merganser (*Lophodytes cucullatus*).
- (xiii) Pacific loon (*Gavia pacifica*).

- (xiv) Common loon (*Gavia immer*).
- (xv) Double-crested cormorant (*Phalacrocorax auritus*).
- (xvi) Black oystercatcher (*Haematopus bachmani*).
- (xvii) Lesser yellowlegs (*Tringa flavipes*).
- (xviii) Semipalmated sandpiper (*Calidris semipalmatus*).
- (xix) Western sandpiper (*Calidris mauri*).
- (xx) Wilson's snipe (*Gallinago delicata*).
- (xxi) Bonaparte's gull (*Larus philadelphia*).
- (xxii) Mew gull (*Larus canus*).
- (xxiii) Red-legged kittiwake (*Rissa brevirostris*).
- (xxiv) Arctic tern (*Sterna paradisaea*).
- (xxv) Black guillemot (*Cepphus grylle*).
- (xxvi) Cassin's auklet (*Ptychoramphus aleuticus*).
- (xxvii) Great horned owl (*Bubo virginianus*).

(2) Only Alaska Natives may sell or re-sell any authentic native article of handicraft or clothing that contains an inedible byproduct of a bird listed in paragraph (b)(1) of this section that was taken for food during the Alaska migratory bird subsistence harvest season. Eligibility under this subsection can be shown by a Tribal Enrollment Card, Bureau of Indian Affairs card, or membership in the Silver Hand program. All sales and transportation of sold items are restricted to within the United States. Each sold item must be accompanied by either a certification (FWS Form 3-XXXX) signed by the artist or a Silver Hand insignia. Purchasers must retain this documentation and produce it upon the request of a law enforcement officer.

(3) Sales by consignment are allowed. Each consigned item must be accompanied by either a certification (FWS Form 3-XXXX) signed by the artist or Silver Hand insignia. All consignees, sellers, and purchasers must retain this documentation with each item and produce it upon the request of a law enforcement officer. All consignment sales are restricted to within the United States.

(4) The Office of Management and Budget reviewed and approved the information collection requirements contained in this part and assigned OMB Control No. 1018-XXXX. We use the information to monitor and enforce the regulations. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may send comments on the information collection requirements to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed at 50 CFR 2.1(b).

Dated: May 16, 2016

Michael J. Bean

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

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